IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

Crl.MC.No. 2146 of 2007()

AGAINST THE ORDER IN L.P. 36/2005 IN
CC.1143/2001 of JUDL. MAGISTRTE OF FIRST CLASS COURT-III, THRISSUR

.....

PETITIONER: ACCUSED

SINDHU JOSE, AGED 35,
PERUMATHIL HOUSE, PULLAZHY P.O.,
OLARIKKARA, THRISSUR - 12.

BY ADV. SRI.N.K.MOHANLAL

RESPONDENTS: COMPLAINANT NO.1
---

1. JAVERT, AKKARA HOUSE,
KUTTANELLORE, THRISSUR.

2. SUB INSPECTOR OF POLICE,
AYYANTHOLE, THRISSUR.

3. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

R2 & 3 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

Crl.M.C.No. 2146 of 2007

- -

Dated this the 4th day of July, 2007

O R D E R

The petitioner faces indictment in a prosecutions under Section 138 of the N.I. Act. Cognizance has been taken. The petitioner could not appear before the learned Magistrate on the date of posting as the date was noted wrongly. Consequently non-bailable warrant has been issued against the petitioner reckoning him as an absconding accused. According to the petitioner she is absolutely innocent. Her absence was not willful and deliberate.

2. The learned counsel for the petitioner submits that the petitioner is willing to appear before the learned Magistrate. But she apprehends that her application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which she could not earlier appear before the learned

Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when she surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. Hand over the order.

(R. BASANT)
Judge

tm